

Remarks

In an office Action of July 24, 2008, Applicant was required to elect one of some eight species.

Applicant elects to proceed with Species 1, said to be illustrated in FIGS. 1-3.

It would appear that FIGS. 7-12, 20, 21, 25, 26 and 30-32 also illustrate the basic "plication band" without the addition of a discrete linking apparatus. It is recognized that a linking apparatus can be used with the embodiments of FIGS. 20, 21, 25, 26 and 30-32, but the basic plication band shown in those FIGS. is read on by claim 3.

Claim 28 reads on the species shown in the above noted FIGS., including FIGS. 1-3.

Claim 3 depends from claim 8 and appears to read on the embodiment of FIGS. 1-3 and FIGS. 20, 21, 25 and 26, and 30-32. If the embodiments shown in FIGS. 1-13, 20, 21, 25, 26 and 30-32 are deemed to be one species, then claim 3 reads on that species. If it is held that the embodiments shown in FIGS. 20, 21, 25, 26 and 30-32 are different species by virtue of having a capability of receiving a linkage (as well as a capability of performing without a linkage), then claim 3 would not read on the elected species and will be withdrawn.


Similarly, claim 4 depends from claim 3, but limits the bridge portion of the band to being crimpable. The plication bands of FIGS. 1-3 are "crimpable" as shown in FIGS. 10, 31 and 32. Therefore, it would appear that the reason for crimping recited in relation to FIG. 4 should not place the structure of FIG. 4 in a different category of inventions.

Claims 5 and 6 have been placed in a different species from FIGS. 1-3 because of a linkage the band is adapted to receive, but the structure of the band itself remains as set forth in claim 28; the band may or may not be adapted to receive a linkage, but the band remains simply a band, with no discrete linkage structure forming a part thereof.

Claims 11-14 are herein withdrawn inasmuch as they possibly lean too far into linkage territory.

In summary, it is urged that the claims remaining in the case for consideration be deemed directed to one species, namely a plication band (no linkage), whether or not adapted to be used in conjunction with another apparatus (linkage), and that claims 28 and 3-6 be deemed to constitute a single species.

Respectfully submitted,



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